

**REMARKS**

Claims 1-8, 10-17, 19-22 and 24-28 are pending. Claims 9 and 23 were previously canceled. Claim 18 is currently canceled. Claims 1-8, 21, 22 and 24-28 have been withdrawn from consideration. Claims 11, 15, and 17 are currently amended.

Reconsideration of the application, as amended, is requested.

Support for the amendment to claim 17 can be found in the specification, for example, page 20, lines 10-17 and Fig. 17. The amendments to claims 11 and 15 are self-supporting.

The abstract is amended as required in the Office Action. The abstract is now less than 150 words.

**§ 112 Rejections**

Claims 11, 15 and 17-18 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

With regard to claim 11, the term "substantially" in claim 11 is said to be a relative term which renders the claim indefinite.

In response, claim 11 is currently amended to delete the word "substantially".

Claim 15 recited the limitation "said intermediate part". There is said to be insufficient antecedent basis for this limitation in the claim.

In response, claim 15 is currently amended to delete the limitation containing "said intermediate part".

Claim 17 is said to be unclear because of the use of the term "integrally". The Office Action states that it is not clear if the claimed limitation may be considered as the anti-adhesive means being a part of the distal end portion as one continuous structure or as the anti-adhesive means being a portion directed connected to the distal end portion. Claim 18 is rejected for

insufficient antecedent basis for the limitation "the proximal end of said distal end portion" and because the location of the line of weakness is said to be unclear.

In response, claim 17 has been redrafted as an independent claim, which includes the line of weakness limitation of claim 18. Applicants submit that this amendment overcomes the rejections.

In summary, Applicants submit that the rejection of claims 11, 15 and 17-18 under 35 USC § 112, second paragraph, has been overcome, and that the rejection should be withdrawn.

### **§ 102 Rejections**

Claims 10-14 and 16-17 are rejected under 35 USC § 102(b) as being anticipated by Tritsch (US 3,930,503).

In order to anticipate a claim, a reference must teach each and every element as set forth in that claim; (see, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), cited at MPEP § 2131). Tritsch does not anticipate claims 10-14 and 16-17 because it does not teach each and every element as set forth in the claims.

In claim 10, "said distal end portion is connected to said inner tab portion at said first major surface thereof", and "an anti-adhesive means is provided at least at a part of said exposed portion of the first major surface of the inner tab portion". It is clear from claim 10 that both the distal end portion and the anti-adhesive means are on the first major surface of the inner tab portion.

The Office Action states:

Regarding claim 10, Tritsch teaches a closure tape tab for an absorbent article (See Abstract), for fastening of the article on the body of a person (col. 2, lines 10), comprising a proximal end portion (terminal end 15, pressure sensitive adhesive layer 15, col. 2, line 66, Fig. 2, col. 2, line 42) and a distal end portion (terminal end 16, col. 2, line 43, Fig. 2) being connected by an inner tab portion (central segment 17, col. 2, lines 43-45), said inner tab portion having a first major surface (lower surface, Fig. 2) and an opposite second major surface (upper surface, Fig. 2), wherein said proximal end portion is connected to said inner tab portion at said second major surface thereof such that said proximal end portion extends over at least a substantial portion of said inner tab portion (pressure sensitive adhesive layer 15, Fig. 2), and said distal end portion is connected to said inner tab portion at said first major surface thereof such that at least a portion thereof remains exposed (Fig. 2), and wherein an anti-adhesive means is provided

at least at a part of said exposed portion of the first major surface of the inner tab portion (release surface 25, col. 2, line 63).

The Office Action refers to segment 17 as the inner tab portion, with the lower surface being the first major surface. Although the Office Action relies upon Fig. 2 of Tritsch for the limitation that said distal end portion is connected to said inner tab portion at said first major surface thereof such that at least a portion thereof remains exposed, Fig. 2 does not support this interpretation. Fig. 2 of Tritsch shows the distal end portion (as labeled in the Office Action) connected to the upper surface (called second major surface in the Office Action) of the inner tab portion, not the lower surface (i.e., first major surface as labeled). On the lower surface of the segment 17 in Fig. 2 of Tritsch, only a release surface 25 is shown; nothing else is present on the lower surface. Tritsch shows that the anti-adhesive means and the distal end portion are on opposite faces of the inner tab portion, and they are not both on the first major surface as claimed in claim 10.

At least for the reason that Tritsch fails to disclose each and every element of claim 10, Tritsch does not anticipate claim 10 or claims 11-14, 16, and 17, which are dependent from claim 10. Moreover, the Office Action does not provide evidence that a person having ordinary skill in the art would modify Tritsch to obtain a closure tape tab as claimed in claim 10.

Regarding claim 11, as amended, Tritsch clearly does not teach wherein said anti-adhesive means extends over the entire length of said exposed portion of the first major surface of the inner tab portion. Moreover, the Office Action does not provide evidence that a person having ordinary skill in the art would modify Tritsch to obtain a closure tape tab as claimed in claim 11.

Regarding claim 17, as amended, Tritsch clearly does not teach wherein said distal end portion extends over the entire length of said first major surface of said inner tab portion. Moreover, the Office Action does not provide evidence that a person having ordinary skill in the art would modify Tritsch to obtain a closure tape tab as claimed in claim 17.

In summary, the rejection of claims 10-14 and 16-17 under 35 USC § 102(b) as being anticipated by Tritsch (US 3,930,503) has been overcome and should be withdrawn.

Claims 15 and 18 stand rejected under 35 USC § 102(b) as purportedly anticipated by Tritsch (US 3,930,503) in view of Richman et al. (US 4,020,842).

In order to anticipate a claim, a reference must teach each and every element as set forth in that claim; (see, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), cited at MPEP § 2131). With regard to claim 15, the Office Action states in paragraph 26, "Tritsch fails to teach the distal end portion being comprised of a nonwoven material." The Office Action further states in paragraph 29, "Regarding claim 18, Tritsch fails to teach a line of weakness." At least because of these missing elements specifically pointed out in the Office Action, claims 15 and 18 are not anticipated by the cited art. Accordingly, Applicants respectfully request withdrawal of the improper rejection of claims 15 and 18 under 35 USC § 102(b).

Also, Richman et al. does not remedy the deficiencies of Tritsch described above. Therefore claim 15 is patentable over the combination of Tritsch and Richman et al.

In summary, the rejection of claims 15 and 18 under 35 USC § 102(b) as being anticipated by Tritsch (US 3,930,503) in view of Richman et al. (US 4,020,842) has been overcome and should be withdrawn.

Claims 19-20 stand rejected under 35 USC § 102(b) as purportedly anticipated by Tritsch (US 3,930,503) and/or in view of Richman et al. (US 4,020,842) in view of Loescher (WO 2004/075803).

In order to anticipate a claim, a reference must teach each and every element as set forth in that claim; (see, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), cited at MPEP § 2131). The Office Action states in paragraph 34, "Regarding claim 19, Tritsch and Tritsch as modified by Richman et al. fails to teach a stable roll of laminated closure tape." The Office Action further states in paragraph 39, "Regarding claim 20, Tritsch and Tritsch as modified by Richman et al. fails to teach wherein stable roll of prelaminated closure tape is levelwound." At least because of these missing elements specifically pointed out in the Office Action, claims 19 and 20 are not anticipated by the cited art. Accordingly, Applicants respectfully request withdrawal of the improper rejection of claims 19 and 20 under 35 USC § 102(b).

Also, Loescher does not remedy the deficiencies of Tritsch or the combination of Tritsch and Richman et al. described above. Therefore claims 19 and 20 are patentable over any combination of Tritsch, Richman et al., and Loescher.

In summary, the rejection of claims 19-20 under 35 USC § 102(b) as being anticipated by Tritsch (US 3,930,503) and/or in view of Richman et al. (US 4,020,842) in view of Loescher (WO 2004/075803) has been overcome and should be withdrawn.

Claims 10-16 and 19-20 stand rejected under 35 USC § 102(a) as purportedly anticipated by Loescher (WO 2004/075803).

In order to anticipate a claim, a reference must teach each and every element as set forth in that claim; (see, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), cited at MPEP § 2131). Loescher does not anticipate claims 10-16 and 19-20 because it does not teach each and every element as set forth in the claims.

In claim 10, "said proximal end portion is connected to said inner tab portion at said second major surface thereof". It is clear from the claim that the proximal end portion is on the second major surface of the inner tab portion.

The Office Action states:

Regarding claim 10, Loescher teaches a closure tape tab (elastic laminate fastening tab, Abstract) for an absorbent article, for fastening of the article on the body of a person (page 1, lines 5-7), comprising a proximal end portion (right portion of closure element 8, page 7, line 13) and a distal end portion (left portion of closure element 6, page 7, line 13) being connected by an inner tab portion (middle portion of elastic laminate fastening tab 2, blanking film portion 30, elastic element 18, page 7, line 32, page 8, line 2, Fig. 2), said inner tab portion having a first major surface (upper surface of elastic laminate fastening tab 2, fig. 2) and an opposite second major surface (lower surface of elastic laminate fastening tab 2, fig. 2), wherein said proximal end portion is connected to said inner tab portion at said second major surface thereof such that said proximal end portion extends over at least a substantial portion of said inner tab portion (blanking film portion 30, Fig. 2), and said distal end portion is connected to said inner tab portion at said first major surface thereof such that at least a portion thereof remains exposed (See Fig. 2), and wherein an anti-adhesive means (blanking film portion 28, page 8, line 2) is provided at least at a part of said exposed portion of the first major surface of the inner tab portion (See Fig. 2).

The Office Action refers to blanking film portion 30 combined with elastic element 18 as the inner tab portion, with the lower surface being the second major surface. Although the Office Action relies on Fig. 2 of Loescher for the limitation that said proximal end portion is connected to said inner tab portion at said second major surface thereof, Fig. 2 does not support this interpretation. Fig. 2 of Loescher shows the proximal end portion (as labeled in the Office Action) connected to the upper surface (labeled the first major surface) of the inner tab portion, not the lower surface (labeled the second major surface). As clearly shown in Fig. 2 of Loescher, nothing is present on the lower surface.

At least because Loescher fails to teach each and every element of claim 10, the reference does not anticipate claim 10 or claims 11-16, 19, or 20 which are dependent from claim 10. Moreover, the Office Action does not provide evidence that a person having ordinary skill in the art would modify Loescher to obtain a closure tape tab as claimed in claim 10.

In summary, the rejection of claims 10-16 and 19-20 under 35 USC § 102(b) as being anticipated by Loescher (WO 2004/075803) has been overcome and should be withdrawn.

### **Request for Rejoinder**

Restriction was required between Group II to a closure tape tab and Group IV, a method of making the closure tape tab. Withdrawn claims 24 to 28 incorporate all the claim features of patentable claim 10. Accordingly, it is submitted that they are likewise patentable. Rejoinder of at least claims 24 to 28 is respectfully requested. See MPEP § 821.04.

In view of the above, it is submitted that the application is in condition for allowance. Examination and reconsideration of the application as amended is requested.

Respectfully submitted,

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Date

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